

TOWN OF TIVERTON
ZONING BOARD OF REVIEW MINUTES

APRIL 7, 2010

The following petitions were received and were heard by the Tiverton Zoning Board of Review on Wednesday, April 7, 2010 at 7:30 p.m. at the Tiverton Town Hall, 343 Highland Road.

Members present: Chairman David Collins, Susan Krumholz, Lise Gescheidt, Richard Taylor and Raymond LaFazia, second alternate.

Also present were: Peter Ruggiero, Town Solicitor, Gareth Eames, Building Official and Sally Ferreira, Court Reporter.

1. A petition has been filed by Millenium Renewable Energy, LLC by their Attorneys, Silva, Thomas, Martland & Offenberg, LTD of Middletown, RI requesting a special use permit to Article IV Section 5.d. of the Tiverton Zoning Ordinance in order to construct a 343 foot wind turbine tower at Fish Road, Tiverton, RI being Maps 1-12 & 2-11 Block 92 Card 17 on the Tiverton Tax Assessor's maps whereby a special use permit is required in a R40 zoning district.

* The Chairman stated a letter was received from the petitioner indicating that because of their appeal, it would not be appropriate for this Board to hear this petition until the appeal is resolved. The Chairman entertained a motion to continue until next month. Ms. Krumholz so moved and Ms. Gescheidt seconded. The vote was unanimous. Voting were: Chairman David Collins, Lise Gescheidt, Susan Krumholz, Raymond LaFazia and Richard Taylor.

2. A petition has been filed by Millenium Renewable Energy, LLC by their Attorneys, Silva, Thomas, Martland & Offenberg, LTD of Middletown, RI requesting a variance to Article V Section 1 of the Tiverton Zoning Ordinance in order to construct a 343 foot wind turbine tower at Fish Road, Tiverton, RI being Maps 1-12 & 2-11 Block 92 Card 17 on the Tiverton Tax Assessor's maps exceeding maximum height which is currently allowed in a R40 zoning district.

* The Chairman stated a letter was received from the petitioner indicating that because of their appeal, it would not be appropriate for this Board to hear this petition until the appeal is resolved. The Chairman entertained a motion to continue until next month. Ms. Krumholz so moved and Ms. Gescheidt seconded. The vote was unanimous. Voting were: Chairman David Collins, Lise Gescheidt, Susan Krumholz, Raymond LaFazia and Richard Taylor.

3. A petition has been filed by Rene Berger of Belchertown, MA requesting a variance to Article VIII, Section 3.d.(1) and Article XIV Section 4.a. and Article V Section 2.b. of the Tiverton Zoning Ordinance in order to demolish and replace existing legal non-conforming 850 square foot dwelling with a 768 square foot dwelling located at 238 Pelletier Lane, Tiverton, RI being Map 3-12 Block 113 Card 41A-015 on Tiverton Tax Assessor's maps whereby no development shall occur with 200 feet of Stafford Pond unless a variance is granted and exceeding the maximum number of housing structures permitted on one lot located in a R60 zoning district.

DECISION: Attorney Stetson Eddy from Leary and Holland representing the petitioner appeared before the Board and gave a brief overview of the site. Mr. Eddy stated the development is known as Stapoco which stands for Stafford Pond Company located in the northeast corner of Stafford Pond. It is an 11 acre parcel shown as two tax lots and there are 35 dwellings that pre-date zoning. Mr. Eddy went on to say originally the dwellings were on leased land and the homeowners own the buildings and Stapoco, the corporation, owned the land. It became difficult for the homeowners to get financing so the stockholders who were the homeowners voted to convert the property to condominiums which was done in May of 2009. Mr. Eddy further stated some of the units share wells and septic systems and many of the septic systems have recently been upgraded.

Mr. Eddy presented one of his witnesses Mr. Rene Berger. Mr. Berger was sworn in and gave testimony regarding the construction of a new dwelling. The Board asked Mr. Berger questions about the present septic system. Mr. Taylor stated originally there was a plan filed to control density on that lot and how they were going to handle that in conjunction with the watershed. Mr. Eddy stated it went before the Planning Board and they felt that because it pre-dated zoning, it did not have to come before the board on a formal basis. Mr. Eddy went on to say Civil Engineering Concepts prepared a 16 page plan with by-laws, rules and regulations that is recorded along with all the deeds from the homeowners.

Patricia Kelly, a professional land surveyor in Rhode Island was sworn in. There was no objection from the Board to accept Ms. Kelly as an expert witness. Ms. Kelly testified that the existing house is a Quonset Hut situated a little bit southerly of where the new dwelling is proposed. Ms. Kelly further testified the proposed wood frame house is a little bit smaller than the existing dwelling but there will be no change in the number of bedrooms. There is a fairly new on-site bottomless sand filter waste water treatment system. Ms. Kelly then answered questions from the Board.

The Board went into executive session to discuss this petition. Ms. Gescheidt made the motion that the variance be granted with the conditions that there be no increase in the amount of impervious surfaces and that there be a restriction that there will be no more than four occupants. Mr. LaFazia seconded. The vote was unanimous. Voting were: Chairman David Collins, Lise Gescheidt, Susan Krumholz, Raymond LaFazia and Richard Taylor.

4. A petition has been filed by William C McLaughlin of 1640 Fish Road, Tiverton, RI requesting a variance to Article V Section 1 of the Tiverton Zoning Ordinance in order to allow a garage which was erected in 2007 to remain in its existing location at 1640 Fish Road, Tiverton, RI being Map 2-9 Block 113 Card 85F on Tiverton Tax Assessor's maps closer to the south side yard setback than is currently allowed in a R60 zoning district.

* The Chairman entertained a motion to continue this petition due to the fact the petitioner requested a continuance because the engineering drawings are not properly stamped in accordance with the Zoning Board of Review requirements. Ms. Gescheidt made a motion to continue and Mr. LaFazia seconded. The Vote was unanimous. Voting were: Chairman David Collins, Lise Gescheidt, Susan Krumholz, Raymond LaFazia and Richard Taylor.

Administrative Issues

Mr. Taylor made a motion to accept the minutes of the previous meeting as written. Ms. Gescheidt stated she hadn't read them yet. The Board decided to wait until the next meeting to vote on the minutes.

Mr. Ruggeiro informed the Board Mr. Tosi filed an appeal but he doesn't think it will be prosecuted. Ms. Gescheidt asked what happens next and Mr. Ruggeiro stated the Building Official will have to enforce the decision of the Board. Mr. Ruggeiro informed the Board procedurally the Millenium application may get resolved before next month so there may not be a hearing on the appeal.

Mr. Collins informed the Board that he will not be present at the May Zoning Board of Review meeting. There was no further discussion. Ms. Gescheidt made a motion to adjourn. Mr. LaFazia seconded. The vote was unanimous. Voting were: Chairman David Collins, Lise Gescheidt, Susan Krumholz, Raymond LaFazia and Richard Taylor.

(Whereupon the Zoning Board of Review meeting of April 7, 2010 was adjourned at 8:33 p.m.)

CERTIFICATE

I, Salvina S. Ferreira, Registered Professional Reporter, hereby certify that the foregoing pages 1-4 of the Tiverton Zoning Board of Review meeting held on Wednesday, April 7, 2010, are transcribed to the best of my knowledge, skill and ability.

I further certify that I am not interested in the event of the action.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and affixed my seal of office this 21st day of April, 2010.

Salvina S. Ferreira, RPR

My Commission Expires: 9/26/13
ID # 28792